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Report 11-010 (PED08261(a))
CM: May 25, 2011

Bill No. 142

CITY OF HAMILTON

BY-LAW NO. 11-142

**To Amend By-law No. 07-170, a By-law to License and Regulate Various
Businesses**

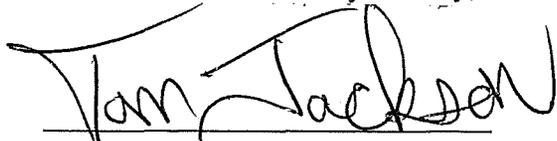
WHEREAS Council enacted a by-law to license and regulate various businesses being City of Hamilton By-law No. 07-170;

AND WHEREAS this By-law provides for the replacement of Schedule 1 of City of Hamilton By-law No. 07-170;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. Schedule 1 of By-law No. 07-170 is deleted and replaced with the new Schedule 1, entitled "Adult Entertainment Establishments", attached as Appendix A to this By-law.
2. All licences issued under Schedule 1 which are current and valid on the day this By-law comes into force shall be deemed to:
 - (a) be current and valid under the amended Schedule 1; and
 - (b) be subject to all of the applicable provisions of By-law No. 07-170 and the amended Schedule 1, including but not limited to expiring and being renewable as though they had been issued under the amended Schedule 1.
3. This By-law comes into force on the day it is passed.

PASSED this 25th day of May, 2011.



T. Jackson
Acting Mayor



R. Caterini
City Clerk

APPENDIX A

SCHEDULE 1

ADULT ENTERTAINMENT ESTABLISHMENTS

PART I: DEFINITIONS

1. In this Schedule:

Adult Entertainment Establishment

“**adult entertainment establishment**” means any premises or part of a premises in which are provided, in pursuance of a business, goods or services appealing to or designed to appeal to erotic or sexual appetites or inclinations and includes an adult services entertainment establishment, an adult film store and an adult film theatre;

Adult Services Entertainment Establishment

“**adult services entertainment establishment**” means any premises or part of a premises in which adult services are provided by one or more individuals by means of physical movements, verbal expressions, or other forms of behaviour;

“**adult services**” means services appealing to or designed to appeal to erotic or sexual appetites or inclinations and includes but is not limited to:

- (a) services of which a principal feature or characteristic is the nudity, or partial nudity of any person;
- (b) services in respect of which the word “nude”, “naked”, “topless”, “bottomless”, “sexy” or any other word or any picture, symbol or representation having like meaning or implication is used in any advertisement; or

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(c) activities, facilities, performances, dances, exhibitions, viewings and encounters in an adult services entertainment establishment;

“attendant” means any person who provides adult services in an adult services entertainment establishment;

“business owner” means a person who owns or occupies or has the right to own or occupy, an adult services entertainment establishment and includes but is not limited to a lessee of an adult services entertainment establishment or of the premises in which the adult services entertainment establishment is located;

“main stage” means the primary area within an adult services entertainment establishment upon which services are presented, and excludes areas for the seating of customers;

“operator” means a person who operates, manages, supervises, controls or is responsible for the business of an adult services entertainment establishment;

“to provide” when used in relation to adult services includes to furnish, perform, solicit, or give such services and “providing” and “provision” have corresponding meanings;

Adult Film Store and Adult Film Theatre

“adult film” means a film classified by the Ontario Film Review Board as “restricted” and approved by the Ontario Film Review Board as an “adult sex film”;

“adult film area” means the part of a Class B adult film store used for the provision of adult films;

“adult film store” means a Class A adult film store or a Class B adult film store;

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“adult film theatre” means premises for which a Class B Exhibitor licence has been issued under the Film Classification Act, 2005 or its regulations;

“Class A adult film store” means:

- (a) premises for which a Class B Retailer licence has been issued under the Film Classification Act, 2005 or its regulations;
- (b) premises where:
 - (i) the number of adult films available from the premises exceeds 500;
or
 - (ii) the number of adult films available from the premises is more than 20% of the films available from the premises which are not adult films; and
- (c) does not include a Class B adult film store;

“Class B adult film store” means:

- (a) premises for which a Class B Retailer licence has been issued under the Film Classification Act, 2005 or its regulations;
- (b) premises where:
 - (i) the number of adult films available from the premises does not exceed 500; and
 - (ii) the number of adult films available from the premises is not more than 20% of the films available from the premises which are not adult films; and
- (c) does not include premises where the area displaying adult films is no more than 5% or 9.3 m², whichever is less, of the total area displaying films on the premises;

“film” means a moving image, including an interactive moving image such as a video game, that may be generated for viewing from any thing including but not limited to video tapes, video discs, film or electronic files.

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“to provide” when used in relation to adult films includes to sell, offer to sell or display for sale, or rental, or sample gift, by retail or otherwise such adult films, and “providing” and “provision” have corresponding meanings;

“specified body area” means any one or more of the following:

- (a) in the case of a female person, her areolas; and
- (b) in the case of all persons, the genitals and the anus; and

“specified sexual activity” means any one or more of the following: actual or simulated sexual intercourse, masturbation, ejaculation, sodomy, bestiality, oral sexual intercourse, direct physical stimulation of unclothed genital organs, or flagellation or torture in the context of a sexual relationship or activity.

PART II: LICENCES

Adult Entertainment Establishment

2. No licence shall be issued to an applicant that is:
 - (a) a corporation, if any one of the applicant's officers, directors or shareholders is less than 18 years of age;
 - (b) a partnership, if any one of the applicant's partners is less than 18 years of age;
 - (c) an individual, if the individual is less than 18 years of age.

Adult Services Entertainment Establishment

3. No person shall carry on or in engage in the business of a business owner or operator of, or an attendant in an adult services entertainment establishment without holding a current, valid licence issued under this By-law.

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4. Only an individual may be issued an operator or an attendant licence.
5. A separate business owner licence or operator licence shall be taken out in respect of each adult services entertainment establishment.
- 6.(1) Where a business owner does not personally operate their adult services entertainment establishment, every person operating such establishment shall obtain a licence so to do, but nothing herein relieves such a business owner from the requirement that they obtain a licence as business owner of such establishment.
 - (2) A business owner who manages their own adult services entertainment establishment shall notify the Issuer of Licences of this at the time they obtain their licence so that their licence may be endorsed accordingly and the business owner shall notify the Issuer of Licences to have the said endorsement amended before engaging any operator to operate such establishment.
 - (3) An operator shall notify the Issuer of Licences of the name of the business owner whose adult services entertainment establishment they intend to operate at the time they obtain their licence so that their licence may be endorsed accordingly and the operator shall notify the Issuer of Licences to have the said endorsement amended before operating any other such establishment.
 - (4) The Issuer of Licences shall issue a photo identification card to each licensed business owner, licensed operator and licensed attendant. The licence holder shall be re-photographed every third year or sooner if required by the Issuer of Licences.
- 7.(1)(a) No adult services entertainment establishment shall be located and no adult services entertainment establishment licence shall be issued except for adult services entertainment establishments in areas as permitted by subsections 7(2) and 7(3).
 - (b) No more than two adult services entertainment establishment licences shall be issued.

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- (2) Council may consider a request to substitute a new location for an existing adult services entertainment establishment location provided that any requested new location shall be located entirely within the area shown on Map 1 or the area shown Map 2 attached to and forming part of this Schedule.
- (3) Despite subsection 7(2), the premises at the following municipal addresses licensed and in actual use as a adult services entertainment establishment on May 25, 2011, are each deemed to be a location where one adult services entertainment establishment is permitted to operate and eligible to be licensed only for so long as the premises continues to be used for such purposes, the business owner maintains their licence and the business carried on therein is in compliance with this By-law and all other applicable law:
 - (a) 92 Barton Street East, Hamilton;
 - (b) 1038 Barton Street East, Hamilton.
- (4) No new business owner licence shall be issued for a location listed in subsection 7(3).
- (5) When an adult services entertainment establishment business owner licence expires and is not or cannot be renewed or such licence is otherwise surrendered or revoked, then upon receipt of a complete application which otherwise complies with this By-law, the Issuer of Licences shall carry out a selection process for a licence as follows:
 - (a) the available business owner licence shall be advertised in the Hamilton Spectator newspaper and on the City's website inviting the submission of applications within a specified period of time;
 - (b) a draw shall be conducted from all of the submitted, complete applications which otherwise comply with this By-law; and
 - (c) the winner of the draw may be issued a business owner licence for an existing or new location provided that such existing or new location conforms to subsection 7(2) and is approved by Council.
- (6) No business owner shall have an interest, whether as a corporation, a partnership or an individual, in more than one adult services entertainment establishment business owner licence.

Adult Film Store and Adult Film Theatre

- 8. No person shall carry on the business of an adult film store or an adult film theatre without holding a current, valid licence issued under this By-law.
- 9. A separate licence shall be taken out in respect of each adult film store and each adult film theatre.

Class A Adult Film Store

- 10.(1)(a) No Class A adult film store shall be located and no Class A adult film store licence shall be issued except for Class A adult film stores in areas as permitted by subsections 10(2) and 10(3);
 - (b) no more that two Class A adult film store licences shall be issued.
- (2) Council may consider a request to substitute a new location for an existing Class A adult film store location provided that any requested new location shall be located entirely within the area shown on Map 1 or the area shown Map 2 attached to and forming part of this Schedule.
- (3) Despite subsection 10(2), the premises at the following municipal addresses licensed and in actual use as a Class A adult film store on May 25, 2011, are each deemed to be a location where one Class A adult film store is permitted to operate and eligible to be licensed only for so long as the premises continues to be used for such purposes, the licence holder maintains their licence and the business carried on therein is in compliance with this By-law and all other applicable law:
 - (a) 8 Fennell Avenue West, Hamilton;
 - (b) 128 Parkdale Avenue North, Hamilton.
- (4) No new licence shall be issued for a location listed in subsection 10(3).
- (5) When a Class A adult film store licence expires and is not or cannot be renewed or such licence is otherwise surrendered or revoked, then upon receipt of a complete application which otherwise complies with this By-law, the Issuer of Licences shall carry out a selection process for a licence as follows:

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- (a) the available licence shall be advertised in the Hamilton Spectator newspaper and on the City's website inviting the submission of applications within a specified period of time;
 - (b) a draw shall be conducted from all of the submitted, complete applications which otherwise comply with this By-law; and
 - (c) the winner of the draw may be issued a licence for an existing or new location provided that such existing or new location conforms to subsection 10(2) and is approved by Council.
- (6) No licence shall be issued under subsection 10(5) to an applicant who has an interest, whether as a corporation, a partnership or an individual, in a current and valid Class A adult film store licence.

Adult Film Theatre

- 11.(1)(a) No adult film theatre shall be located and no adult film theatre licence shall be issued except for adult film theatres in areas as permitted by subsections 11(2) and 11(3);
- (b) no more than two adult film theatre licences shall be issued.
- (2) Council may consider a request to substitute a new location for an existing adult film theatre location provided that any requested new location shall be located entirely within the area shown on Map 1 or the area shown Map 2 attached to and forming part of this Schedule.
- (3) Despite subsection 11(2), the premises at 61 King Street East, Hamilton, in actual use as an adult film theatre on May 25, 2011, is deemed to be a location where one adult film theatre is permitted to operate and eligible to be licensed only for so long as the premises continues to be used for such purposes, the licence holder maintains their licence and the business carried on therein is in compliance with this By-law and all other applicable law.
- (4) A licence may be issued for the location listed in subsection 11(3) only if:
- (a) an application is filed within 90 days of May 25, 2011; and
 - (b) the application is complete and otherwise complies with this By-law with the exception of subsection 11(5) of this Schedule which does not apply.

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- (5) When an adult film theatre licence has not been issued, expires and is not or cannot be renewed or such licence is otherwise surrendered or revoked, then upon receipt of a complete application which otherwise complies with this By-law, the Issuer of Licences shall carry out a selection process for a licence as follows:
 - (a) the available licence shall be advertised in the Hamilton Spectator newspaper and on the City's website inviting the submission of applications within a specified period of time;
 - (b) a draw shall be conducted from all of the submitted, complete applications which otherwise comply with this By-law; and
 - (c) the winner of the draw may be issued a licence for an existing or new location provided that such existing or new location conforms to subsection 11(2) and is approved by Council.
- (6) No licence shall be issued under subsection 11(5) to an applicant who has an interest, whether as a corporation, a partnership or an individual, in a current and valid adult film theatre licence.

INFORMATION TO BE PROVIDED BY APPLICANT

Adult Entertainment Establishment

12. On every application for a licence or for the renewal of a licence:
 - (a) the applicant shall attend in person, and not by an agent, at the office of the Issuer of Licences to file the application provided by the Issuer of Licences and shall furnish such information as the Issuer of Licences may direct;
 - (b) if the applicant is not an individual, the application shall be filed and updated from time to time as this By-law requires by an individual duly authorized by the applicant to sign such application on behalf of the applicant and to bind it, and the individual filing such application shall certify the truth and completeness of the information provided.
13. When filing an application for a licence, in addition to complying with the General Provisions of this By-law, an applicant shall file:
 - (a) if the applicant is a corporation:

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- (i) a current certified copy of the corporation profile report;
 - (ii) a list containing the full name of each officer, director and shareholder, the address of their ordinary residence, their telephone number and their date of birth;
 - (iii) the name or names under which the applicant intends to carry on in the business; and
 - (iv) the address of the corporation to which the Issuer of Licences may send or deliver any notice or other document required or authorized by law;
 - (b) if the applicant is a partnership:
 - (i) a current certified copy of the limited partnerships report;
 - (ii) the name or names under which the applicant intends to carry on in the business; and
 - (iii) the address of the partnership to which the Issuer of Licences may send or deliver any notice or other document required or authorized by law;
 - (c) if the applicant is an individual:
 - (i) the name of the individual, the address of their ordinary residence, their telephone number and their date of birth; and
 - (ii) the address of the individual to which the Issuer of Licences may send or deliver any notice or other document required or authorized by law.
14. When filing an application for a licence renewal, in addition to complying with the General Provisions of By-law No. 07-170, an applicant shall, at the time of making an application:
- (a) sign a form certifying that there are no changes to the information required to be filed under the General Provisions of By-law No. 07-270 or this Schedule;
 - (b) if the applicant is a corporation, file every third year a copy of the last information return filed for the corporation and any changes or corrections to the information it contains; and

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- (c) if the licence is an adult services entertainment establishment business owner licence, a Class A film store licence or an adult film theatre licence, file every third year the information respecting the owner of the location as set out under subsections 16(b) for an adult services entertainment business owner or under subsections 18(b) and 18(c) for a Class A adult film store licence or for an adult film theatre licence.
15. Every licence holder shall advise the Issuer of Licences immediately in writing of any change to the information required to be filed in respect of their licence under the General Provisions of By-law No. 07-170 or this By-law, provided that no licence holder shall change or cause a change to be made to a floor plan without first obtaining the approval of the Issuer of Licences.

Adult Services Entertainment Establishment

16. When filing an application for a licence, an applicant for an adult services entertainment establishment shall file:
- (a) the municipal address of one location from which the business is to be carried on and in respect of which a licence is sought;
 - (b) the name and address of the owner of the location as registered under the *Land Titles Act* or the *Registry Act*;
 - (c) documentation demonstrating the applicant's right to possess or occupy the location and if the applicant is not the owner of the location as registered under the *Land Titles Act* or the *Registry Act*, the applicant shall file a copy of a lease or other document constituting or affecting their legal relationship with the owner of the location; and
 - (d) a detailed floor plan, drawn to scale and approved by the Issuer of Licences including but are not limited to depicting the location of one main stage and of seating areas, offices, cloak rooms, disc jockey areas, kitchen facilities, bar areas, dressing rooms, washrooms, storage areas and entrances/exits.

Adult Film Store and Adult Film Theatre

17. When filing an application for a licence, an applicant for an adult film store or an adult film theatre licence shall file a detailed floor plan, drawn to scale, of the adult film store or the adult film theatre that has been approved by the Issuer of Licences and the details of such floor plan shall include but are not limited to depicting the location of:
- (a) entrances/exits to the adult film store or adult film theatre;
 - (b) for a Class B adult film store licence, entrances/exits to one adult film area; and
 - (c) for an adult film theatre licence, each lobby and each room where adult films are exhibited.

Class A Adult Film Store and Adult Film Theatre

18. When filing an application for a licence, an applicant for a Class A adult film store licence or an adult theatre licence shall file:
- (a) the municipal address of one location from which the business is to be carried on and in respect of which a licence is sought;
 - (b) the name and address of the owner of the location as registered under the *Land Titles Act* or the *Registry Act*; and
 - (c) documentation demonstrating the applicant's right to possess or occupy the location and if the applicant is not the owner of the location as registered under the *Land Titles Act* or the *Registry Act*, the applicant shall file a copy of a lease or other document constituting or affecting their legal relationship with the owner of the location.

EXPIRATION

Adult Entertainment Establishment

19. No licence issued under this By-law is transferable.

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20. A licence issued under this By-law shall be deemed to have expired where:
- (a) by transfer of existing shares (including as a result of the death of a shareholder), by an issue of new or existing shares, or by some other means, the controlling interest in a corporation holding a licence is determined by the Issuer of Licences to have changed hands; or
 - (b) one or more partner in a partnership holding a licence is determined by the Issuer of Licences to have ceased to be a partner (including as a result of death) or the partnership is determined by the Issuer of Licences to have ceased to exist.

PART III: DUTIES OF LICENCE HOLDERS

Adult Entertainment Establishment

21. Every licence holder shall:
- (a) produce their licence for inspection upon demand by a person assigned or appointed by the Issuer of Licences to enforce this By-law; and
 - (b) be civil in all dealings with the customers and members of the public.

Adult Services Entertainment Establishment

22. A business owner shall:
- (a) not permit any person other than a licensed operator to operate the adult services entertainment establishment;
 - (b) not permit any person other than a licensed adult services entertainment establishment attendant to provide adult services in the adult services entertainment establishment;
 - (c) at all times when operating an adult services entertainment establishment, carry on their person their photo identification card.

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23. An operator shall not operate an adult services entertainment establishment unless:
- (a) the business owner is licensed under this By-law;
 - (b) they first notify the Issuer of Licences of the name of the business owner whose adult services entertainment establishment they intend to operate;
 - (c) they have the business owner's name endorsed on their licence; and
 - (d) at all times when operating an adult services entertainment establishment, they carry on their person their photo identification card.
24. An adult services entertainment establishment business owner or operator shall:

Premises

- (a) post their licence in a conspicuous place in the adult services entertainment establishment at all times;
- (b) post a copy of the approved floor plan at all public entrances/exits and in the adult services entertainment establishment attendants' dressing rooms;
- (c) keep the premises in a clean and sanitary condition;
- (d) display no more than two signs on the exterior premises of the adult services entertainment establishment that comply with paragraphs 24(d)(i) to (v) inclusive:
 - (i) the signs shall not exceed 0.3 m² in area;
 - (ii) the signs shall be illuminated only by a non-flashing indirect or interior means;
 - (iii) one of the signs shall be located over the street door or in the lower front window bearing only the words "Licensed Adult Entertainment Establishment Licence - No. _____", complete with the licence number inserted;

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- (iv) one of the signs shall have a depth of not more than 7.6 cm flat against a wall or door, bearing only the following information:
 - a. the business owner's name as shown on the licence;
 - b. the name, if any, under which the business owner carries on business as endorsed on their licence;
 - c. the address of the adult services entertainment establishment;
 - d. the telephone number of the adult services entertainment establishment;
- (v) the signs shall not include any other letters, marks, painting, contrasting colours, symbol, logo, or any mark whatsoever;
- (e) except as otherwise provided in this section, not advertise or use advertising devices or permit any person to advertise or use advertising devices inside or outside the premises, including but not limited to any printed matter, oral or other communication or thing posted or distributed for the purpose of promoting their adult services entertainment establishment or the adult services provided therein;
- (f) not carry on or permit the carrying on of the business unless the licensed business owner or a licensed operator is present at the adult services entertainment establishment;
- (g) except where otherwise provided in this By-law, close or cause to be closed the adult services entertainment establishment at 2:00 a.m. and remain closed until 8:00 a.m. every day when the adult services entertainment establishment is open;
- (h) post a sign in the adult services entertainment establishment attendants' dressing rooms, at all public entrances/exits and in the washrooms that:
 - (i) includes the following statements:
 - physical contact with the attendants is prohibited; and
 - sexually transmitted infections can be passed on through unprotected sexual contact; and
 - (ii) can be easily read by any person approaching;

Adult Services

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- (i) retain the photo identification card of each adult services entertainment establishment attendant in their possession during the term of employment of the attendant and keep it in a secure place in the adult services entertainment establishment where it may be produced for inspection as required;
 - (j) return each adult services entertainment establishment attendant's photo identification card to the attendant upon the termination of their employment;
 - (k) not permit any person, other than a licensed adult services entertainment establishment attendant, to provide an adult service in the adult services entertainment establishment;
 - (l) not permit an adult services entertainment establishment attendant, while providing adult services, to have physical contact with another person's body, or another person to have physical contact with an attendant;
 - (m) ensure that all adult services provided by an adult services entertainment establishment attendant are clearly visible from the main stage, without obstruction or obscuration by any thing, including but not limited to walls, curtains, glass, enclosures, structures, fog, or inadequate lighting; and
 - (n) ensure that no adult services are visible from the exterior of the premises.
25. An adult services entertainment establishment attendant shall not:
- (a) provide any adult services unless their photo identification card is kept in a secure place in the adult services entertainment establishment where it may be produced for inspection as required;
 - (b) provide any adult services unless the business owner or the operator is licensed as business owner or operator of the adult services entertainment establishment;
 - (c) during the provision of adult services, have physical contact with another person's body, or permit another person to have physical contact with their body;

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- (d) provide adult services which are not clearly visible from the main stage, without obstruction or obscuration by any thing, including but not limited to walls, curtains, glass, enclosures, structures, fog, or inadequate lighting;
- (e) provide any adult services that are visible from the exterior of the premises.

Adult Film Store

26. An adult film store licence holder shall:
- (a) post their licence in a conspicuous place in the adult film store at all times;
 - (b) keep the premises in a clean and sanitary condition;
 - (c) not use exterior signs or advertisements for the adult film store which use a pictorial representation of a specified body area or a specified sexual activity;
 - (d) advertise and carry on the business only under the name in which the licence is issued, or such other name as provided to the Issuer of Licences and endorsed on the licence; and
 - (e) not permit the viewing of adult films on the premises.

Class A Adult Film Store

27. In addition to complying with section 26, a Class A adult film store licence holder shall:
- (a) not permit any person under the age of 18 years to enter or remain in such Class A adult film store;
 - (b) not permit any employee under the age of 18 years to work in such Class A adult film store;

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- (c) post and keep posted at every public entrance/exit to the Class A adult film store, and in a prominent location inside such Class A adult film store, signs sufficient to indicate clearly to any person approaching the Class A adult film store, and to every person in the Class A adult film store, that no person under the age of 18 years is permitted to enter or remain in such Class A adult film store or any part of it; and
- (d) display adult films or adult film packaging which reveals a specified body area or a specified sexual activity so that they may not be viewed by any member of the public outside the premises;

Class B Adult Film Store

28. In addition to complying with section 26, a Class B adult film store licence holder shall:
- (a) display adult films only in an adult film area;
 - (b) not permit any person under the age of 18 years to enter or remain in the adult film area;
 - (c) not permit any employee under the age of 18 years to work in the adult film area;
 - (d) post at every public entrance/exit to the adult film area signs sufficient to indicate clearly to any person approaching the adult film area that no person under the age of 18 years is permitted to enter or remain in such adult film area;
 - (e) display adult films or adult film packaging which reveals a specified body area or a specified sexual activity so that they may not be viewed by any member of the public outside the adult film area;
 - (f) ensure that adult films or adult film packaging which reveals a specified body area or a specified sexual activity while being transported from the adult film area to the cashier, if located outside the adult film area, are enclosed in an opaque bag or other container so that they are not visible; and

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- (g) inform any employees of the Class B adult film store of the boundaries of the adult film area and the requirement that persons under the age of 18 years not be allowed to enter or remain in the designated area.

Adult Film Theatre

29. An adult film theatre licence holder shall:

- (a) post their licence in a conspicuous place in the adult film theatre at all times;
- (b) keep the premises in a clean and sanitary condition;
- (c) not use exterior or interior signs or advertisements for the adult film theatre which use a pictorial representation of a specified body area or a specified sexual activity;
- (d) advertise and carry on the business only under the name in which the licence is issued, or such other name as provided to the Issuer of Licences and endorsed on the licence;
- (e) not permit any person under the age of 18 years to enter or remain in such adult film theatre;
- (f) not permit any employee under the age of 18 years to work in such adult film theatre;
- (g) post and keep posted at every public entrance/exit to the adult film theatre, and in a prominent location inside such adult film theatre, signs sufficient to indicate clearly to any person approaching the adult film theatre, and to every person in the adult film theatre, that no person under the age of 18 years is permitted to enter or remain in such adult film theatre or any part of it;
- (h) ensure that every room where adult films are exhibited:
 - (i) contains seating for not less than 50 individuals; and
 - (ii) has direct access to a lobby; and
- (i) ensure that the door to a room under subsection 29(h) is not equipped with a locking device of any kind, or with anything else which could delay anyone from obtaining access to the room.

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